

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Carol S. Albano  
51 Spaulding Street, Amherst MA 01002

**Date application filed with the Town Clerk:** May 15, 2007

**Nature of request:** To modify Special Permit ZBA FY79-6 to expand a one-bedroom apartment into a four-bedroom apartment in a two-family house

**Address:** 280 North East Street (Map 12C, Parcel 3, R-N Zoning District)

**Legal notice:** Published on May 30 and June 6, 2007 in the Daily Hampshire Gazette and sent to abutters on May 28, 2007

**Board members:** Ted Rising, Hilda Greenbaum and Jane Ashby

**Submissions:** The petitioner submitted the following documents with her application:

- A landscape plan, drawn on a reduced site plan prepared by Harold Eaton & Assoc., dated 8/27/85;
- A lighting plan, drawn on a site plan prepared by Harold Eaton & Assoc., dated 8/27/85;
- A Management Plan for the two-family house;
- A sample lease agreement;
- Hand drawn floor plans of the existing first floor of the house and garage, and the proposed conversion of the garage to bedrooms.

On June 14, 2007 the applicant submitted a revised Management Plan, a revised lighting plan, a revised hand drawn parking plan and revised hand drawn floor plans for the proposed expanded unit.

The Planning Department submitted a memo dated 6/8/07 commenting on the application.

A member of the public, Ellen Hunt, 24 Canterbury Lane, Amherst, submitted a letter both via email and at the hearing in support of the application, dated 6/12/07.

For the continued August 9, 2007 hearing, the applicant submitted a revised Management Plan and a revised set of plans drawn by Francois Verhoeven dated 8/9/07 with the following:

- A locus map of the property in the area and an aerial map of the property from the Amherst GIS system;
- A site plan showing the proposed parking and landscaping;
- Two maps showing the existing conditions of the original house and garage;
- The proposed floor plan of the second dwelling unit, including the converted garage area;
- A site plan of the proposed lighting and drainage;
- Building sections and elevations.

**Site Visit:** June 12, 2007

The Board met with the applicant at the site and observed the following:

- The applicant's large property, close to a condominium complex and other multi-family houses, and located on a major north-south roadway;
- Active farms to the north and east of the property;
- The one-story, five-bay garage connected in back west of the historical farmhouse that is proposed to be converted to bedrooms;
- The new roof and newly painted exterior of the garage;
- Two driveways, the main one south of the house with six parking places, and another on the north of the house that goes to an old barn in the rear of the property; three additional parking spaces are proposed near the barn;
- The existing windows and doors for the garage, which will be the location of some of the windows and doors for the proposed expansion;
- The unevenness of the garage floor, and the different levels of the garage bays;
- The slope of the backyard, which is at the base of a drumlin that runs north-south, parallel to South East Street;
- A drainage swale behind the garage that slopes in a north-easterly direction.

**Public Hearing:** June 14, 2007

Ms. Albano represented herself at the hearing. She said that, based on discussions with neighbors, she made some changes to her plans. She submitted to the Board new hand-drawn landscaping plans, floor and management plans.

The Board Chair, Mr. Rising, said that she will need better plans, not hand drawn ones. The plans must be professionally drawn and with dimensions. Elevations must be included, with window and door locations. Given this, Mr. Rising asked the applicant if she wanted to wait until those plans are completed.

Ms. Albano said that the professionally drawn plans will be the same as what she just submitted, so she would like to proceed with the hearing. She stated the following:

- Section 3.321 of the Zoning Bylaw allows for a two-family house, and Special Permit 79-6 allowed for two apartments within the main house;
- The second unit in the house currently has one bedroom, a kitchen and bath;
- She wants to expand the second unit into the 5 bay garage space to create 4 bedrooms and a storage area;
- Both the house and the garage are structurally sound;
- The property was given a Special Permit, ZBA FY2003-00014, to enlarge the second unit to a two-bedroom apartment; this permit was never acted upon and expired;
- There are several other two-family houses in the area;
- The application will not change the footprint of the house or the garage;
- The expanded unit will have new windows and doors;
- The driveway space on the north side of the house will be developed for the extra tenants;
- The increase in the number of tenants would be two people; there have been two people in the small apartment at times, and 4 bedrooms would only have 4 people;
- There are 4 people in the front apartment, so the total would be 8 people on the premises;
- She's requesting that this property be non-owner occupied; she has never lived there, and has managed this property or others for 21 years;
- Since 2005 there has been a resident manager at the house, which has worked well;

- There has been just one noise violation in 21 years;
- For potential applicants, she checks at UMass for references and records; she meets with the applicants 2-3 times before renting and goes over the lease carefully with them; as a result, she's had good results with her tenants;
- In terms of parking, there is plenty; there will be 6 spaces on the south side and 3 extra on the north side of the house;
- She talked to the Town Engineer, and he agreed that the second curb cut, which is currently to the barn, can be used for tenants;
- The tenants in the back apartment will use the parking on the north side of the house;
- The trash and recycling will be indoors, located in the last bay of the garage;
- The Fire Department signs will be used to identify the two apartments, one for each unit located at the edge of the road;
- The lighting will be adequate and safe, with switch lights that are downcast;
- There will be additional landscaping on the north side to screen the new parking area;
- The landscaping, snow removal and maintenance will be done by the owner;
- All the dimensional requirements are met except the front setback which is grandfathered in at 12.5 feet, not the required 20 feet.

Ms. Greenbaum said that she could not understand the drawings. For example, are the parking spaces dirt or will they be paved? Will they be lined? Ms. Albano responded that there will be 13 spaces, 6 of which are used now. There will be plenty of parking since she will keep the current parking on the south side and add 4 spaces on the north side of the house.

The Board said again that the drawings will have to be upgraded to reflect the testimony.

Ms. Albano said that the proposed pine trees are the only new thing added to the plans.

Ms. Ashby concluded that the applicant gave a good presentation and orientation for the Board. But the Board cannot hear much more testimony without professionally drawn plans. Ms. Greenbaum agreed.

Mr. Rising asked if members of the public wished to speak about the proposal for the record. Several people at the hearing chose to do so.

Leonard Huber, 94 Mt. Warner Road, Hadley, spoke in support of the proposal. He said that he lived for several years on Spaulding Street where the applicant lives; he has known the applicant for 15 years and taught school with her. He said that Ms. Albano is very conscientious, communicates well and has excellent rapport with her tenants. She also operated a large house at Wellfleet on the Cape for many years.

Stanley Jacobs, 266 North Street, Belchertown, submitted a letter from Ellen Hunt of 24 Canterbury Lane in support of the application, stating that the applicant contributes positively to the community. Mr. Jacobs said that he has lived next door to the applicant and has known her for 6-7 years. He said that she is concerned with the impact of her tenants on the neighbors and screens them well.

Rhonda Jacob, 266 North Street, Belchertown, said that she has known the applicant for 27 years, and that Ms. Albano is an intelligent, caring person who wants to do the right thing; she is attuned to detail, very thorough and has high standards; also, she will enhance the property, which is an asset to the Town.

Frank Hein, 369 Strong Street, said that he lives behind the house under consideration. He is concerned with

noise from the tenants and parties near his house. He is concerned that there will be too many undergrads in the area.

Jack Hunt, 24 Canterbury Lane, said that he has known the applicant for 12+ years. He said that she develops a relationship with her tenants and doesn't rent to undergraduates. He said that the applicant has had tough times, and rentals are her only source of income. To deny the permit would be a hardship for her.

Pat Joyce, 270 North East Street, said that she is the abutter to the south, right next door. She made the following comments:

- Her house is single family, owner-occupied;
- Mostly there have been 5 people next door, so the change from 5 to 8 people will be significant;
- She is currently aware of the parties that last until 2 or 3 in the morning, and hears the car doors slamming all the time;
- She would like a resident manager, so there would be someone to consult with;
- She didn't know of the plans to change the house until the public notice, and feels overwhelmed by the proposal;
- She would like the driveway to be on the north side of the house, away from her house, and would like the tenants to use the north side of the house for an entrance in order to cut down on the noise;
- In terms of screening, she is requesting a winter screen on the south side, not just the bushes that are there now, which only screen in the summer;
- She would like the screening in the parking area, but not for the driveway because of visibility.

Mr. Rising repeated that the Board will continue the hearing until they receive architectural drawings of the proposed changes. Elevations showing the level of each bedroom, the windows, doors and entrances are needed. Ms. Ashby added that she would like to see a drainage plan, given the relatively steep hill behind the garage and the existence of the drainage swale.

Ms. Greenbaum made a motion to continue the hearing until 7:30 pm. August 9, 2007. Ms. Ashby seconded the motion and the vote was unanimous to continue the hearing until August 9, 2007.

#### **Continued Public Hearing**      August 9, 2007

Ms. Albano represented herself at the continued hearing. She stated the following:

- She tried to answer all the issues raised at the previous hearing and incorporate the changes in the professionally drawn plans that she submitted;
- The area is zoned R-N, and her property meets all of the dimensional requirements of the district, except for the front setback, which is non-conforming; she speculated that the house, an historic farmhouse of a former dairy farm, may have existed before the actual paving of North East Street;
- There are several two-family and multi-family dwellings in the immediate area;
- Her dwelling is already a two-family house, and she would like to convert the 5-bay attached garage into 4 bedrooms for the second small unit at the back of the original house;
- The final configuration will be two units with four bedrooms each, an increase of 3 bedrooms and 2 or 3 new tenants;
- There will be no changes to the footprint of the house and garage, and visually the conversion will not be evident from the road;
- She has used a resident manager for the property, and it has worked out well.
- She has a close relationship with her tenants and screens them well beforehand;
- She lives nearby and can get to the property in an emergency;
- In terms of parking, there is adequate parking (9 spaces) shown on the plan, but not too much; on the

south side, there are 6 places plus turnaround proposed, with three places plus turnaround on the north side;

- There is existing blacktop on the south side, and the driveway on the north will be of permeable material;
- The lease will designate who will park on the north and who on the south side; most of the tenants for the second unit will park on the north side;
- Extra landscaping will be added to the south side to shield the parking area;
- The drainage was examined by her contractor, and will be handled by the swale in the back behind the garage;
- The elevations show that the roofline of the garage structure is level, but the ground rises to the west, so that the height of the structure decreases by 2 feet, 4 inches from the back of the house westerly to the back of the garage structure; in other words, the ceiling height of the proposed third and fourth bedrooms will have a ceiling height 2 feet, 4 inches less than the first bedroom closest to the house;
- The hallway outside of bedrooms #3 and #4 will be 7'1" to 9'7" high; the hallway outside bedroom #1 will be 9'1" to 12'5" high;
- To accommodate the rise in the land, there will be one 8" riser between the new living room of the enlarged apartment, one 8" riser between bedrooms #1 and #1, and two 8" risers between bedrooms #2 and #3;
- Exterior lighting will be downcast, motion-activated.

Mr. Rising commented that he was impressed with her submissions. The drawings, management plan and lease were all very well done.

Ms. Greenbaum also complimented the applicant on the quality of her documents and presentation.

Ms. Greenbaum asked about the siding of the former garage structure. The applicant stated that either aluminum siding or red cedar shingles to match the house will be used.

Ms. Ashby asked about lighting. Ms. Albano repeated that the exterior lighting will be downcast, with motion sensors (page 6 of the submitted plans.)

Mr. Rising noted that short, thick shrubs and evergreens will be needed to shield the abutters from the parking on both sides of the house. The applicant agreed.

Building Inspector Dave Waskiewicz noted that two of the bedroom #2 windows shown on the plan need to be larger for emergency egress. They must be 28' x 48" minimum. The applicant stated that she would make the windows equal in size.

Ms. Greenbaum asked about the proximity of the bathroom to the kitchen. Mr. Waskiewicz stated that the building code allows for the two rooms to be next to one another.

Ms. Ashby stated that she is concerned that the parking plan presented added several parking spaces to the south side of the house, given the concerns expressed by an abutter at the previous meeting. She asked if Ms. Albano would consider moving the parking to the north side, making a total of 5 places on the north side, and 4 on the south side. The applicant replied that revising the parking would be possible.

Two members of the public spoke at the hearing. Pat Joyce, 270 North East Street, said that, as the immediate neighbor to the south, she finds the parking on the south side of the house a concern. With the increase in tenants, she would like the two dwelling units to be as separate as possible. She would like the residents of the second unit to have their main entrance on the north side of the building. She said that in warm weather, the tenants congregate in the parking lot or on the roof and can be noisy.

Ms. Joyce asked about the square footage of the new section for the second unit. It was roughly calculated at 1700 square feet.

Janet Surprise, a tenant in the front section of the house under consideration, spoke in support of the application. She said that Ms. Albano is an excellent landlady; she keeps her properties neat, and is an asset to Amherst.

Ms. Greenbaum made a motion to close the evidentiary portion of the hearing. Ms. Ashby seconded the motion and the vote was unanimous to close the hearing.

#### **Public Meeting:**

The Board spent much of the public meeting discussing whether or not the applicant should pave the driveway and parking area on the north side of the house. Two Board members felt that a pervious material would be best, because of environmental reasons and the run-off not impacting busy North East Street. The third Board member felt that unpaved parking lots can be muddy and hard to navigate for several months of the year. She was also concerned that having a less appealing parking lot on the north side of the house would lead tenants to park mostly on the south side of the house which would create a potential disturbance for the neighbor. After much discussion, a compromise was reached with a condition that the driveways and parking areas be well maintained year round.

The Board spent the remainder of the public meeting crafting conditions if the Special Permit were to be approved.

#### **Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because many of the homes in the neighborhood are multi-family or part of a condominium complex to the south.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the property is very large, the parking area will be split into two smaller ones, and there will be additional screening added to the parking area.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because there will be paved sidewalks to enter the house from the parking area. Visibility is good for cars entering North East Street. Abutters are far enough away that they will not impact the traffic on/off the applicant's property, or vice versa.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the submitted plans seem to address all the safety and aesthetic issues raised at the initial hearing in terms of converting a garage to bedrooms and a living room.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because Section 7.0 of the Zoning Bylaw requires two parking places per dwelling unit, and the applicant will be providing nine spaces. In addition, two identification signs will be added at the property edge to identify the two units per the Fire Department request.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the Town water and sewer is available, and there is a big barn for storage.

10.391 – The proposal protects unique or important natural, historic or scenic features because the historic farmhouse will not change, and other than a change in the windows and possibly the siding, no external changes will be made to the garage area either.

10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, because the conditions of this Special Permit will require extra screening of the parking area.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because new external lighting will be downcast.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because the footprint and the exterior of the building will not change.

10.397 – The proposal provides adequate recreational facilities, open space and amenities for the proposed use because the property is very large and open. There are few trees and no wetlands.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because the careful design of the changes will help to protect the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. The proposal also will provide extra rental housing close to the University and the center of Town.

#### **Public Meeting – Zoning Board Decision**

Ms. Greenbaum made a motion to APPROVE the application with conditions. Ms. Ashby seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a modification of Special Permit ZBA FY79-6 to expand a one-bedroom apartment into a four bedroom apartment in a two-family house, at 280 North East Street (Map 13C, Parcel 3, R-N Zoning District), as requested in the application filed by Carol Albano, with conditions.

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EDWARD RISING

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HILDA GREENBAUM

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JANE ASHBY

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2007 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2007.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2007  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
in the Hampshire County Registry of Deeds.

**Town of Amherst  
Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a modification of Special Permit ZBA FY79-6 to expand a one-bedroom apartment into a four bedroom apartment in a two-family house, at 280 North East Street (Map 12C, Parcel 3, R-N Zoning District), as requested in the application filed by Carol Albano, subject to the following conditions:

1. Modified site plans and elevations showing the windows, siding type, parking and landscaping shall be submitted to the Board for approval at a public meeting prior to issuance of a certificate of occupancy.
2. The conversion of the garage shall be as shown on the floor plans approved by the Board at the public meeting on August 9, 2007.
3. The windows on the converted garage section shall be uniform in appearance.
4. The main entrance for the apartment (the second unit) shall be on the north side of the converted garage section.
5. The two dwelling units shall be managed according to the Management Plan approved by the Board at the public meeting on August 9, 2007.
6. All new exterior lighting shall be downcast.
7. The parking areas shall provide five spaces plus a turnaround on the north side of the building, and four spaces plus a turnaround on the south side.
8. A berm on the north side parking area shall delineate the parking area.
9. The turnaround spaces shall be marked with "No Parking" signs.
10. Both parking areas and turnaround spaces, whether paved with a pervious or impervious material, shall be well-maintained year round.
11. There shall be no more than four unrelated adults living in either section of the house, for a total of no more than eight unrelated adults.
12. Should the property be sold or managed by someone other than the applicant, the Management Plan shall be reviewed at a public meeting of the Board

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EDWARD RISING, Chair  
Amherst Zoning Board of Appeals

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DATE